



COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

BOARD OF SUPERVISORS

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DATE: August 18, 2021

01

TO: Board of Supervisors

SUBJECT

JVR ENERGY PARK MAJOR USE PERMIT, FIRE PROTECTION AND MITIGATION AGREEMENT, AND ENVIRONMENTAL DOCUMENT (DISTRICT: 2)

OVERVIEW

Today's requested action is for the Board of Supervisors (Board) to consider a Major Use Permit (MUP), a Fire Protection and Mitigation Agreement to contribute ongoing funding toward fire services, and the Environmental Impact Report (EIR) for the JVR Energy Park (Project). The Project is a solar energy generation and storage facility which will produce 90 megawatts (MW) of renewable electric power and deliver it to an existing San Diego Gas & Electric (SDG&E) 138 kilovolt (kV) transmission line transecting the Project site that connects to the Boulevard Substation. The 604-acre solar facility will be developed within the 1,356-acre Project site, which includes a proposed 435-acre biological open space easement. No development is proposed within the remaining acreage of the Project site.

The site is located within the Jacumba Subregional Group Area, which is part of the Mountain Empire Subregional Plan Area, to the south of Interstate 8 (I-8), immediately east of the community of Jacumba Hot Springs, and immediately north of the U.S./Mexico international border. The Project will include photovoltaic units (solar) mounted on support structures, a battery energy storage system, a substation, a switchyard, overhead transmission lines, and supporting electrical components.

Based on comments received from the community during processing of the Project, the applicant, JVR Energy Park LLC, increased the setbacks from Old Highway 80 and Jacumba Community Park. In addition, staff recommended the inclusion of a 300-foot buffer from residential properties north of Old Highway 80 to increase the distance from these properties. Although the addition of buffers reduced the solar facility from 643 acres to 604 acres, the project revision to utilize improved photovoltaic (PV) solar panel technology still allows for a 90 MW power capacity. This technology includes the use of panels with increased wattage capacity and the use of dual-sided solar panels, which produce energy from both sides of the panels. The 604-acre solar facility, including the increased buffers, is called the Community Buffer Project to distinguish it from the original Project. On June 22, 2021, the Jacumba Community Sponsor Group submitted an alternative solar facility layout that they named the Equity for Jacumba Alternative. This alternative reduces the solar facility to 300 acres and focuses the development north of the town

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of Jacumba Hot Springs and does not allow for a 90 MW power capacity. Staff recommends that the Board adopt the Community Buffer Project, which is described below in the Background section and in greater detail as the Community Buffer Alternative in the Final EIR. Today, the Board is being requested to consider the MUP and the Fire Protection and Mitigation Agreement, and to certify the Final EIR. The Board can approve the Community Buffer Project, approve with modifications, or deny the Project.

Should the Board select an alternative that was not analyzed in the EIR, additional findings and analysis will likely need to be prepared for the Board's consideration.

**RECOMMENDATION(S)
PLANNING COMMISSION**

On July 9, 2021, the Planning Commission considered the JVR Energy Park Major Use Permit (Project) and made the following recommendations to the Board of Supervisors (Board):

1. Adopt the Environmental Findings, which include the certification and findings regarding significant effects of the project, the Statement of Overriding Considerations, and certify the Environmental Impact Report (EIR), REF: PDS2018-ER-18-22-001 for the reasons stated therein and discussed in this report (Attachment A, on file with the Clerk of the Board).
2. Adopt the Community Buffer Alternative as described in Chapter 4, Project Alternatives of the Final EIR.
3. Approve Major Use Permit (MUP) PDS2018-MUP-18-022, and include the requirements and conditions set forth in the Form of Decision (Attachment B, on file with the Clerk of the Board).
4. Approve the Fire Protection and Mitigation Agreement between the County and JVR Energy Park LLC (Applicant) and authorize the County Fire Warden or their representative to sign the agreement for the County (Attachment C, on file with the Clerk of the Board).
5. Recommend that the Applicant work with the community to see what benefits they could bring to the community prior to the Board hearing this project.

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Planning & Development Services (PDS) concurs with the recommendations made by the Planning Commission, and makes one additional recommendation to the Board of Supervisors (Board):

1. Require JVR Energy Park LLC (Applicant) to enter into a standard Defense and Indemnification Agreement, as modified, with the County of San Diego (County) in accordance with County Code Section 86.201 et seq. and authorize the Director of PDS to execute the Agreement. If litigation is filed challenging the Board's action on this Project, require the Applicant to provide security in the amount of \$750,000 in the form of an

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irrevocable letter of credit or bond, in the form acceptable to County Counsel, within 10 days of litigation being filed (Attachment D, on file with the Clerk of the Board).

EQUITY IMPACT STATEMENT

The JVR Energy Park Major Use Permit (Project) will provide renewable energy to San Diego Community Power, a Community Choice Aggregation (CCA) program. CCAs create a powerful, nimble, and responsive opportunity to address community needs through clean energy access, local jobs and economic benefits, and healthier environments. Unlike investor-owned utilities, CCAs are governed by local public officials who are close to the communities they serve, allowing the CCA to guide their respective agency's formation, policies, procurement, and rate design with community priorities; prioritize equity and inclusion in a wide range of planning and policy decisions; and put policy into practice through programs to reduce energy- and transportation-related greenhouse gas emissions in the built environment and bring underrepresented community members into the energy workforce.

FISCAL IMPACT

N/A

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

The Jacumba Community Sponsor Group (CSG) considered the proposed JVR Energy Park Major Use Permit (Project) at two separate meetings. On March 16, 2021 the CSG recommended denial of the Project as originally proposed by a vote of 4 Ayes, 0 Noes, 1 Vacant/Absent.

On May 18, 2021 the CSG recommended denial of the Project as revised by a vote of 5 Ayes, 0 Noes, 0 Vacant/Absent. The CSG cited concerns with the proximity of the proposed solar facility to residential properties, the conversion of agricultural land, increased temperatures in the area as a result of the solar facility, impacts to visual and biological resources, groundwater impacts, impacts to glider use of the Jacumba Airport due to decreased vacant land area and potential glare, fire hazards, and socioeconomic impacts.

The CSG provided recommendations for changes to the Project such as utilizing non-flammable batteries, relocating project components proposed near the Jacumba Airport, and incorporating a 300-foot setback from the community of Jacumba Hot Springs. However, the CSG indicated that even with these revisions, they would not be in support of the proposed solar facility due to the scale of the project and its proximity to the community of Jacumba Hot Springs.

On June 22, 2021, the CSG submitted a suggested revised project they would support, which reduces the solar facility to 300 acres in size and relocates all solar panels north of Old Highway 80, away from the community of Jacumba Hot Springs, and the Jacumba Airport.

Meeting minutes and other correspondence from the CSG can be found in Attachment E.

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INVOLVED PARTIES

JVR Energy Park LLC

See Ownership Disclosure in Attachment F.

PLANNING COMMISSION VOTE

On July 9, 2021, the Planning Commission voted 5 Ayes, 2 Noes to recommend approval of the JVR Energy Park Major Use Permit (Ayes: Edwards, Ashman, Calvo, Hitzke, Pallinger, Noes: Barnhart, Hough). See Attachment G.

BACKGROUND

The JVR Energy Park Major Use Permit (Project) is for the construction, operation, maintenance, and ultimately the decommissioning of a 90 megawatt (MW) solar energy generation and storage facility in the community of Jacumba Hot Springs. The power produced by the proposed solar facility will be delivered to an existing San Diego Gas & Electric (SDG&E) 138 kilovolt (kV) transmission line transecting the Project site. The proposed solar facility is considered a Major Impact Service and Utility use. Under the County's Zoning Ordinance, a solar facility is allowed upon approval of a Major Use Permit (MUP) as discussed below. An MUP is a permit that can be granted for land uses that are not allowed by right in a particular zone, but are determined to be compatible with the surrounding community by imposing conditions of approval.

The proposed development footprint of the Project is primarily located within the portion of the site designated as a Specific Planning Area. JVR Energy Park, LLC (Applicant) initially proposed to change the land use designation based on the Applicant's understanding this was required to allow a solar facility at this site. Thus, the Project described in the Notice of Preparation (NOP) for the Environmental Impact Report (EIR), released on October 8, 2020, included a General Plan Amendment (GPA), Rezone, and an MUP.

However, upon further review, PDS determined that a GPA and Rezone were not needed because a solar facility is allowed in a Specific Planning Area with the approval of an MUP and a bonded agreement, such as a decommissioning plan, to ensure removal of all structures at the end of the term of the MUP. All of the components proposed for the Project will be decommissioned (removed from the Project site) except the Switchyard Facilities which will be transferred to SDG&E after construction. Consequently, the Applicant withdrew the GPA and Rezone applications. The Project as described and analyzed in the EIR does not include any changes to the land use designations or zoning. Pursuant to Section 2888(a) of the County Zoning Ordinance only an MUP is required, which for this Project has a 35-year term. This timeframe is based on the expected operational life of the solar facility.

The solar facility as originally proposed by the Applicant and analyzed in the Draft EIR totaled 643 acres with a setback of 30 feet away from residential properties and was adjacent to the Jacumba Community Park property line. During public review of the Draft EIR from October 8, 2020, to December 7, 2020, the County received comments from individuals in the community of Jacumba Hot Springs regarding the proximity of the Project to the community, including adjacent residential properties, the Jacumba Community Park, and scenic Old Highway 80. In response to community concerns, the Project Applicant revised the Project in the Final EIR to increase the

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setbacks along both the north and south sides of Old Highway 80 and adjacent to Jacumba Community Park.

Additionally, staff recommended the inclusion of a 300-foot buffer from residential properties north of Old Highway 80. Although the addition of these increased buffers reduce the solar facility from 643 acres to 604 acres, the use of dual-sided solar panels with increased wattage allows the 90 MW power capacity proposed by the Applicant to be maintained. This reduced footprint JVR Energy Park Project (604 acres) is referred to as the Community Buffer Project.

Staff recommends the Community Buffer Project rather than the proposed Project in the Final EIR to allow a greater buffer from the Jacumba Hot Springs community.

On May 27, 2021, the Applicant entered into a 20-year term Power Purchase Agreement (PPA) with San Diego Community Power (SDCP), a Community Choice Aggregation (CCA) program to provide renewable electricity to customers (including residences, businesses, and civic uses) in the cities of Chula Vista, Encinitas, Imperial Beach, La Mesa, and San Diego. SDCP will purchase the power produced by the Project and feed it into the electricity grid, while SDG&E will maintain the grid and deliver the power to all SDCP customers. The Community Buffer Project will produce enough electricity for over 4.4% of the energy SDCP will provide to the electricity grid each year, which equates to enough energy to power approximately 57,000 homes. The PPA requires an annual guaranteed energy production amount, which the Community Buffer Project is able to achieve with the solar facility producing a minimum 90MW capacity. If the development footprint of the solar facility was further reduced to provide a greater buffer from Jacumba Hot Springs, beyond that provided by the 604-acre Community Buffer Project, the power capacity of the solar facility may be reduced to less than 90MW.

Site History

As described in the subregional plan for the area¹, in 1919, rail service connected Jacumba Hot Springs to the City of San Diego. By 1925, the community had a premier hotel, the Hotel Jacumba. By the 1930s, Jacumba had developed into a resort destination and had a population of more than 5,000, compared to the population of over 500 today. Jacumba Hot Springs' position as a resort destination continued through World War II. However, the dwindling number of tourists visiting the Salton Sea and increased competition from more northern hot springs, including those in Murrieta and Palm Springs, resulted in decreased tourism to the area. After the new Interstate 8 bypassed Jacumba Hot Springs by two miles, removing passersby on Old Highway 80, most of the roadside service businesses folded. In 1985, the Hotel Jacumba closed and was later destroyed in an arson fire. By the 1980s, the Jacumba Hot Springs Resort, as it is named today, was the only hotel facility left in Jacumba Hot Springs, and it continues to attract visitors.

In 1986, the County Board of Supervisors (Board) designated a Specific Planning Area within the Jacumba Hot Springs area, with the goal of generating renewed interest in Jacumba. This designation is applied to areas that require the preparation and adoption of a comprehensive

¹ The Jacumba Subregional Group Area – Mountain Empire Subregional Plan can be found at https://www.sandiegocounty.gov/content/dam/sdc/pds/docs/CP/Jacumba_CP.pdf

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Specific Plan. A Specific Plan envisions a multi-use land use concept that may contain residential, commercial, industrial, public institutional, and open space uses. Under the current General Plan, the allowable density within the Specific Planning Area in Jacumba Hot Springs is 1,110 dwelling units. Since the 1986 Board approval of the Specific Planning Area, no Specific Plan has been adopted, although two have been submitted. The first was denied in 2003 and the other was withdrawn in 2011. The Project does not include a change to the land use designation and the underlying density will remain. Thus, after decommissioning of the Project, a future Specific Plan could be proposed.

Community Buffer Project Description

The 1,356-acre Project site is located within Jacumba Hot Springs, to the south of Interstate 8. The site consists of 24 parcels and includes existing right-of-way easements for Old Highway 80, SDG&E easements, and an easement for the San Diego and Arizona Eastern Railway. The community of Jacumba Hot Springs is located adjacent to the Project site to the southwest and the Jacumba Airport is located to the southeast. The U.S./Mexico border is located along the southern boundary of the site. A portion of Anza-Borrego Desert State Park is located adjacent to the site to the west. Federal Bureau of Land Management lands are also located in the surrounding area. The existing Jacumba Solar Facility and East County Substation are located approximately 2 miles to the east of the Project site.

The Community Buffer Project is a solar energy generation and storage facility, which consists of the following primary components: photovoltaic modules (solar panels) mounted on support structures (single-axis solar trackers); an underground system, which will collect energy from the solar panels and connect to other infrastructure that will convert and increase the power to transmit electrical energy to the proposed substation, which will convert the energy produced to a higher voltage; and a proposed switchyard which controls the output of energy to the grid that will also include overhead transmission lines to connect the proposed switchyard to an existing San Diego Gas & Electric (SDG&E) transmission line.

The Community Buffer Project also includes a battery energy storage system to store up to 90 megawatts (MW) of electric power and supporting infrastructure. The battery energy storage system is comprised of battery storage containers, which store energy produced by the solar panels during periods of oversupply and discharge it to the electrical grid during period of high demand.

Additionally, the Community Buffer Project will include internal access roads, driveways, perimeter fencing, minimal low-level lighting installed at the entrances, fuel modification zones (a specific area that improves the defensible space around the structure for firefighting activities, and prevents direct flame contact with structures), six water tanks for fire protection, and electrical components to support the solar energy generation and storage facility. An existing water main, which is owned by the Jacumba Valley Ranch Water Company, will be realigned from within the Major Use Permit (MUP) boundary to outside the MUP boundary, to allow for maintenance of the water line (approximately three acres of disturbance).

The unincorporated community of Jacumba Hot Springs is located 300 feet away from the proposed solar facility, to the southwest of the Community Buffer Project site. The Jacumba

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Airport is located along the southeastern portion of the Community Buffer Project site. Additionally, the U.S./ Mexico international border fence parallels the southern boundary of the Community Buffer Project site. An existing transmission corridor transects the northern area of the Community Buffer Project site, which includes the 155-foot-tall Southwest and Sunrise Powerlink 500 kV transmission towers and the 150-foot-tall Boulevard 138 kV transmission line. The existing Jacumba Solar Facility and the SDG&E-owned East County (ECO) substation are within two miles of the Community Buffer Project's eastern boundary.

Access to the site is provided by Old Highway 80 and Carrizo Gorge Road. Each site entrance will include a locked manual swing gate, and metal sign with a lighted directory map and contact information. All entrance gates will include a Knox Box to allow access for emergency service providers. All site entrance access driveways will be 24 feet wide and paved, as required by the County of San Diego Fire Protection District, and the existing SDG&E access road to the switchyard facilities off Carrizo Gorge Road will be improved to a 30-foot width and paved within an existing SDG&E Easement.

Fire response and service access roads will be constructed to a minimum improved width of 24 feet within the site. Internal access will be designed allow for two-way access of fire apparatus to access all inverter/transformer pads and battery storage containers.

Landscaping will be installed primarily adjacent to the community of Jacumba Hot Springs and along both sides of Old Highway 80 to provide visual screening of the solar facility. The proposed landscaping adjacent to the perimeter fence will be approximately 15-feet wide and will include drought tolerant trees (18 feet tall 10 years after planting) with native and/or drought tolerant shrubs and ground covers incorporated between the fence line and the existing road and utility easements. Landscaping will be installed along the north and south sides of Old Highway 80, along the east side of Carrizo Gorge Road, and along the southwestern portion of the solar facility adjacent to the community of Jacumba Hot Springs.

The Applicant has entered an agreement to sign a Project Labor Agreement (PLA), which guarantees a project will use union labor for the duration of project construction. A PLA generally specifies wages and benefits to be paid on a project, and it usually includes binding procedures to resolve labor disputes. A PLA can provide a sustainable workforce, diversity, uniform wages, and worker hiring from the local geographical labor pool when available.

PROJECT ANALYSIS

Planning & Development Services (PDS) reviewed the JVR Energy Park Major Use Permit as described in the Overview section (Community Buffer Project) for conformance with all relevant ordinances and guidelines, including the San Diego County General Plan, the Mountain Empire Subregional Plan, the County of San Diego (County) Zoning Ordinance, and the California Environmental Quality Act (CEQA) Guidelines. A discussion of the Community Buffer Project's consistency with applicable codes, policies, and ordinances is described on the following pages.

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Consistency with Applicable County Plans and Ordinances

The Community Buffer Project site is located within a Specific Planning Area; however, no Specific Plan has been established for the area to date. Based on the current General Plan, the allowable density within the Specific Planning Area is 1,110 units. Prior to the adoption of a Specific Plan, a Major Use Permit may be granted for any use pursuant to a bonded agreement in an amount sufficient to ensure the removal of all structures and infrastructure within a specified amount of time.

The Community Buffer Project includes the switchyard facilities, which controls the output of energy to the grid and the overhead connection to the existing San Diego Gas & Electric (SDG&E) transmission infrastructure. The switchyard facilities are considered a Minor Impact Utility and will not be required to be decommissioned because they are subject to County Zoning Ordinance Section 2884 which allows for Minor Impact Utility uses within the S88 zone with the approval of a Minor Use Permit. All other proposed components of the Community Buffer Project will be subject to a decommissioning plan. After the switchyard facilities are constructed, the facilities will be transferred to SDG&E and, therefore, are subject to California Public Utilities Commission jurisdiction, which has State requirements for regular inspections, maintenance, and vegetation management.

Aesthetics and Visual Resources

Public comments were received regarding potential impacts to aesthetics and visual resources, including change in visual character, effects on views from scenic roads, visual compatibility with surrounding uses, and light and glare generated by the proposed solar facility. The visual impact analysis in the Environmental Impact Report (EIR) identified significant visual impacts to the rural character of Jacumba Hot Springs and the existing landscape of the Project site. Although existing high voltage transmission lines and wind development in Mexico are currently visible, the proposed solar facility will contrast with the existing undeveloped landscape and predominant development (i.e., residential and commercial) in the Jacumba Hot Springs area. The EIR also identified significant impacts to views from Jacumba Community Park, State and federal lands, Old Highway 80 and Interstate 8.

As a result of public comments during public review of the Draft EIR, the original solar facility project and the Community Buffer Alternative as described in the Draft EIR were revised to increase the setbacks to provide a larger buffer between the proposed solar facility and the north and south sides of Old Highway 80, and between the solar facility and Jacumba Community Park. The fence line along the north side of Old Highway 80 will be 110 feet from the edge of the pavement on Old Highway 80, providing a buffer to the north that is 52 feet more than originally proposed. The fence line along the south side of Old Highway 80 will be 175 to 180 feet from the edge of the pavement on Old Highway 80, providing a buffer to the south that is 122 feet more than originally proposed. The increased setbacks along Old Highway 80 will lessen the “tunnel” effect (the effect that occurs when the environment surrounding a vehicle driver begins to blur together due to a monotonous landscape) resulting from the development of the solar facility in proximity to the highway. The increased setback from 30 feet to 300 feet from Jacumba Community Park will reduce the visual prominence of solar facility components as experienced from the park.

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Landscaping and tan colored slatted fencing will be included along the western site boundary that parallels Jacumba Community Park and residential properties in the town of Jacumba Hot Springs. Where slatted fencing is infeasible due to flood design parameters, neutral-colored vinyl screening or other suitable material will be installed. Additionally, the inverters, energy storage containers, and transmission line components will be non-reflective colors to reduce visibility and visual contrast. Mitigation measures will be implemented to reduce impacts to visual resources; however, the visual impacts of the solar facility would remain significant and unavoidable.

Biological Resources

Public comments were received regarding potential impacts to biological resources, including the tricolored blackbird, bat species, and wildlife movement and corridors. The 1,356-acre site is located within a core wildlife area (a large block of habitat that supports multiple wildlife species) and serves as a linkage between two blocks of habitat located to the east and west of the site. The Community Buffer Project will include a 435-acre biological open space easement which will preserve Boundary Creek along the western portion of site, which functions as a north-south wildlife corridor. This open space easement is contiguous to State Park and Bureau of Land Management lands to the west. In addition, the SDG&E easement which transects the site provides an east-west wildlife corridor between Boundary Creek and undeveloped land to the east, which will allow uninterrupted movement for larger species. An opening in the solar facility's perimeter fence will also be provided to allow wildlife to travel between the open space easement north of the facility to the SDG&E easement. The proposed perimeter fencing will allow small reptiles, amphibians, and small mammals to pass beneath the fence.

Mitigation measures to reduce impacts to biological resources, including biological monitoring, preservation of habitat within an on-site open space easement, preparation and implementation of a resource management plan, and species avoidance are required as conditions of approval for the Community Buffer Project.

Wildfire

Public comments were received regarding the potential for wildfire risk related to the proposed solar facility, including the battery energy storage system. Construction and decommissioning of the solar facility will require additional fire protection and emergency services due to increased activity leading to a greater number of ignition sources on the site, including equipment and human activities. In addition, during operations and maintenance, the proposed solar facility will introduce potential ignition sources that do not currently exist on the site.

To address these concerns, the solar facility will provide defensible space (maintained area around structures for fire protection) by setting back all solar panels a minimum of 30 feet from the perimeter fence and vegetation management. The solar facility will maintain defensible space (100 feet in width) around the substation and switchyard. Six water tanks are proposed throughout the site to provide water specifically for firefighting purposes. A Construction Fire Protection Plan will be implemented during the construction phase of the Project to reduce the risk of ignitions. The Fire Protection Plan also includes measures to be implemented during operation of the solar facility.

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JVR Energy Park LLC (Applicant) will enter into a Fire Protection and Mitigation Agreement with the San Diego County Fire Protection District prior to approval of building permits in accordance with the MUP to make a fair share contribution toward local emergency response capabilities. A one-time payment will be made to the County at the time of building permit issuance, with annual payments for the life of the project.

Groundwater

Public comments were received stating concerns regarding groundwater overdraft. The proposed source of groundwater for the Community Buffer Project is the Jacumba Valley aquifer, which underlies the site. During operation of the solar facility, water demand will not exceed the County's thresholds, nor will the groundwater-dependent ecosystems be significantly impacted. A Groundwater Monitoring and Mitigation Plan (GMMP) is included as a condition of approval for the Community Buffer Project, which ensures that pumping does not significantly impact existing well users and groundwater dependent habitat. Groundwater production and water level data is required to be reported to the County monthly during project construction. After construction, groundwater production and water level data are required to be reported to the County on an annual basis for five years. After five years, the County will determine if continued monitoring and annual reporting is required based on the effects of groundwater extraction from the previous five years. The solar facility is required to cease groundwater use if a significant reduction below the baseline groundwater level is exceeded pursuant to County groundwater guidelines. If this occurs, the well may only be utilized after groundwater recovers to prescribed levels and written permission from the County is obtained.

Flood Hazards

The site is situated within a large watershed, most of which is located within Mexico and drains northward into the United States. The site is located within an unmapped floodplain. The flood hazard analysis found that the site would experience flooding during a 100-year flood event, which is a flood event that has a 1% probability of occurring in any given year. Solar panels, inverters/transformer platforms, battery storage containers, and other electrical equipment will be required to be elevated above the floodplain to avoid any flood hazard. In addition, breakaway or flow through fencing will be required where needed.

Jacumba Airport

Public comments were received stating that the Community Buffer Project will result in an impact to operations at the Jacumba Airport that it conflicts with the Airport's Land Use Compatibility Plan lot coverage and open space requirements, and that it will result in safety and glare impacts to aircraft. Comments were also received stating that glare from the solar panels will impact gliders (a light aircraft with no engine) operations at the Jacumba Airport.

The Jacumba Airport is unattended and mainly used by gliders. There is an adopted Airport Land Use Compatibility Plan, also known as an ALUCP, for the Jacumba Airport. An ALUCP is a plan that guides property owners and local jurisdictions in determining what types of proposed new land uses are compatible with an airport. An ALUCP also protects an airport from new incompatible land uses that could restrict an airport's operations.

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Airport safety zones are established as part of an ALUCP, and land use restrictions and requirements are established to protect people and property on the ground and in the air. The Jacumba Airport ALUCP establishes five safety zone areas for the purpose of evaluating safety compatibility of development. The proposed solar facility is compatible with the ALUCP safety zone requirements.

When forced to make an emergency landing, pilots will usually attempt to do so in the most open areas readily available. To enhance safety both for people on the ground and the occupants of the aircraft, the ALUCP contains criteria requiring a certain amount of open land near the Jacumba Airport for emergency landings. To further enhance the safety for both people on the ground and the occupants of aircrafts, the Community Buffer Project will provide 23.94 acres of open land (12.11 acres located on Old Highway 80). The proposed solar facility will exceed the minimum required dimensions of open land to provide a safety landing area for gliders and aircraft in the event of an emergency.

The Community Buffer Project will generate limited glare throughout the year and will be within the range acceptable pursuant to Federal Aviation Administration (FAA) requirements. In response to comments received related to glare, the Applicant will modify the angle of the solar panels to redirect glare up and out of the view of glider pilots. Additionally, the Applicant will be required to notify the FAA 45 days prior to construction and receive a Determination of No Hazard to engine powered aircraft. The Community Buffer Project will comply with all requirements of the Jacumba ALUCP.

Socioeconomic Impacts

Public comments were received stating that the Community Buffer Project will result in socioeconomic impacts such as reduced home and property values in the area, reduced tourism potential, and quality of life. Although CEQA does not require analysis of social and economic impacts, environmental justice concerns are addressed through other laws and policies. In 2017, the Legislature amended Government Code section 65302 to require the addition of an environmental justice element in a local General Plan when the agency updates at least two other elements of the General Plan.

The County adopted an Environmental Justice (EJ) Element of the General Plan on July 14, 2021 (1) that will identify objectives and policies to reduce unique or compounded health risks in identified disadvantaged communities, promote civil engagement in public decision making, and prioritize improvements and programs to address the needs of disadvantaged communities. The community of Jacumba Hot Springs has not been identified as an Environmental Justice community in the EJ Element. However, Policy EJ-1.1 of the EJ Element of the General Plan states an expansion of EJ communities in the County of San Diego must be evaluated with additional criteria to potentially include communities not currently identified as an EJ community.

Major Use Permit Findings

As further detailed in the Form of Decision included in Attachment D, each of the required MUP findings can be made by PDS. The discussion below covers scale, bulk, and coverage of the facilities in relationship to the site and the surrounding area, availability of services, effects upon

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neighborhood character, generation of traffic and the capacity and physical character of surrounding streets, the suitability of the site for the type of proposed use, and any other relevant impact of the use. Additionally, this discussion covers the Community Buffer Project compliance with Zoning Ordinance Section 6954(b)(3), which outlines the requirements for solar energy projects. PDS staff has analyzed the Community Buffer Project in relation to each of these topics.

The surrounding area can be characterized as primarily rural and/or undeveloped private lands and local, State, and federal public lands. The unincorporated community of Jacumba Hot Springs is located adjacent to the proposed solar facility, to the southwest of the Community Buffer Project site. The community includes residential and commercial uses, including a hot springs resort. The Jacumba Airport is located along the southeastern portion of the Community Buffer Project site. Additionally, the U.S./ Mexico international border fence parallels the southern boundary of the Community Buffer Project site, and is composed of straight, 15-foot-tall steel structures that traverse the desert landscape from east to west.

The Community Buffer Project will be set back from the Jacumba Community Park, residential properties in the community of Jacumba Hot Springs, and from Old Highway 80. The Community Buffer Project has been designed to minimize impacts on the natural and developed environment on the site and within the vicinity. Solar panel arrangement on the Community Buffer Project site has been designed to avoid cultural resources, riparian and sensitive habitat areas, and special status species, and to minimize impacts to steep slopes and reduce the need for grading. Biological impacts will be mitigated by an on-site open space easement area which will preserve 435 acres of existing vegetation in perpetuity.

Recent renewable energy projects and associated SDG&E infrastructure have resulted in a change to the physical setting of the Community Buffer Project site and surrounding neighborhood character. An existing transmission corridor transects the northern area of the Community Buffer Project site, which includes the 155-foot-tall Southwest and Sunrise Powerlink 500 kV transmission towers and the 150-foot-tall Boulevard 138 kV transmission line. The existing Jacumba Solar Facility and the SDG&E-owned East County (ECO) substation are within two miles of the Community Buffer Project's eastern boundary. Existing transmission line infrastructure in the area, as discussed above, is comparable in vertical size, scale, and mass as the taller Community Buffer Project components. The solar facility's substation and switchyard pad are consistent in size and scale to similar uses in the surrounding area such as the existing ECO substation and Jacumba Solar Substation.

Several factors contribute to the suitability of the Project site for a solar facility development. The Community Buffer Project would locate solar power plant facilities as near as possible to existing or planned electrical transmission facilities, including co-locating with existing transmission facilities when feasible. For a large-scale renewable energy development, the distance to a viable point of interconnection with the power grid and the ability of the grid to accommodate new renewable generation without triggering major upgrade costs are among the most important factors in alternative energy project feasibility. The intensity of the use proposed is appropriate for the site because a solar energy system is a low intensity type of non-residential development that would

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not cause significant impacts to the community from traffic. Therefore, the Community Buffer Project and the site are suited for the type and intensity of development proposed.

The solar facility is allowed in the Specific Planning Area Land Use Designation upon approval of an MUP. A Major Use Permit may be granted for any use pursuant to a bonded agreement to ensure the removal of all structures and electrical components within a specified amount of time. The Specific Planning area designation on the site would allow for residential and other uses, with up to 1,110 dwelling units. The proposed location, size, design, and operating characteristics of the Community Buffer Project will be consistent with the bulk and scale anticipated with the approved uses in the Specific Planning Area.

For the Community Buffer Project, the Major Use Permit findings can be made based on setbacks, the interim use, the intensity of uses that could be allowed under a Specific Plan, and existing energy infrastructure. The proposed use is consistent with the General Plan and Zoning designations, the Mountain Empire Subregional Plan, the Jacumba Subregional Group Area Plan, and all necessary public facilities and services are available to the site based on technical studies and service availability forms provided by the applicable utility providers and districts.

Defense & Indemnification Agreement

Defense & Indemnification Agreements and security, typically in the form of an irrevocable letter of credit or performance bond, are required for discretionary land use development projects where a litigation risk to the County is identified. The Board of Supervisors (Board) adopted a standard Defense & Indemnification Agreement and makes the determination to require security, the amount of the security, as well as the time the security is to be provided to the County. PDS recommends that the Board require the Applicant to enter into a Defense and Indemnification Agreement with the County and authorize the Director of PDS to execute the Agreement. PDS also recommends that if litigation is filed challenging the Board's action on this project, that the Applicant is required to provide security in the amount of \$750,000 in the form of an irrevocable letter of credit or bond within 10 days of litigation being filed.

At the request of the Applicant, the standard Defense & Indemnification Agreement has been revised to clarify that the County and the Applicant can independently determine the course of litigation and settlement. County Counsel and the Applicant's attorneys have agreed to these changes in Attachment D. Changes to the agreement require the Board of Supervisors' approval. The Board may approve the agreement as revised or reject the changes and approve the standard language.

PUBLIC INPUT

The Community Buffer Project site is located in the Mountain Empire Subregional Plan Area. In 2018, an initial public notice for the Major Use Permit (MUP) application was sent to 99 property owners within 300 feet of the Project site.

The public review period for the Notice of Preparation (NOP) of the Draft Environmental Impact Report (EIR) began on March 7, 2019. The NOP notice was sent to 132 property owners located within a 500-foot radius of the site. During the NOP public review period, a public meeting was

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held by County Staff on March 21, 2019 at the Highland Community Center in the community of Jacumba Hot Springs The Notice of Preparation signifies the beginning of the EIR review and public participation process. At the same time, the County contemplates further agency and public input as the project proceeds through the County's environmental review process. During the community meeting, the community relayed concerns with the size of the solar facility, impacts to property values, community character, biological impacts, and groundwater.

The public comment review period for the Draft EIR started on October 8, 2020. On October 28, 2020, a public meeting was held virtually by County staff. The purpose of the meeting was to provide an overview of the Draft EIR and to provide an opportunity for the public to make comments and ask questions. During the community meeting, the community relayed concerns with the size of the solar facility, community character impacts, property values, impacts to wildlife and habitat, and safety of glider operations at the Jacumba airport. A total of 153 comment letters were received during the Draft EIR public review period. The primary comments received during the public review period of the Draft EIR concerned impacts to visual resources, biological resources, groundwater, the use of the Jacumba Airport, fire hazards, and socioeconomic factors. Comments received and responses to these comments can be found in the Draft Final EIR.

As result of comments from community members in Jacumba Hot Springs, the proposed Project in the Draft Final EIR has been revised to increase the setbacks from Old Highway 80 and Jacumba Community Park. Along both the north and south side of Old Highway 80, the Project fence line has been setback further to provide a larger buffer between the highway and the solar facility, as described in Chapter 1 of the Draft Final EIR. In addition, the Community Buffer Alternative has been revised to include these increased setbacks from the highway and the park.

Prior to the Planning Commission hearing on July 9, 2021, notice was sent to 802 property owners within a 2,100-foot radius of the Project site, including notice to all property owners within the community of Jacumba Hot Springs.

ENVIRONMENTAL STATEMENT

The Draft Final Environmental Impact Report (Final EIR), REF: PDS2018-ER-18-22-001, is available on the Planning & Development Services website. Attachment A to this Board Letter provides the California Environmental Quality Act (CEQA) Findings, which include the certification and findings regarding significant effects of the JVR Energy Park Major Use Permit the mitigation and monitoring program, and the Statement of Overriding Considerations. The Final EIR determined that all potential impacts would be mitigated to less than significant except visual resources and mineral resources, which were determined to be significant and unavoidable.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's actions support the Strategic Initiative of Sustainable Environments/Thriving in the County of San Diego's 2021-2026 Strategic Plan by ensuring that enhancing the quality of the environment by focusing on sustainability, pollution prevention, and strategic planning.

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Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer

ATTACHMENT(S)

Note: Due to the size of the attachments, the documents are available online through the Clerk of the Board's website at www.sandiegocounty.gov/content/sdc/cob/bosa.html.

Attachment A	CEQA and Environmental Findings
Attachment B	Form of Decision for a Major Use Permit PDS2018-MUP-18-022
Attachment C	Fire Protection and Mitigation Agreement
Attachment D	Defense and Indemnification Agreement
Attachment E	Public Documentation
Attachment F	Ownership Disclosure
Attachment G	Planning Commission Action Sheet from July 9, 2021
Attachment H	Planning Commission Hearing Report
Attachment I	Planning Documentation

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: ☐ Yes ☒ No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED

☐ Yes ☒ No

PREVIOUS RELEVANT BOARD ACTIONS:

N/A

BOARD POLICIES APPLICABLE:

I-84 – Project Facility Availability and Commitment for Public Sewer, Water, School, and Fire Services

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):

N/A

ORIGINATING DEPARTMENT: Planning & Development Services

OTHER CONCURRENCE(S): San Diego County Fire Protection District

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